

BEAVERCREEK BOARD OF ZONING APPEALS
REGULAR MEETING, November 11, 2015, 7:00 p.m.

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF AGENDA
- IV. APPROVAL OF MINUTES
 - A. October 14, 2015
- V. PUBLIC HEARINGS
 - A. V-15-8, William Hollon Construction, 2614 Lantz Road a.k.a. 2614 Cinnamon Run
- VI. ADJOURNMENT

BEAVERCREEK BOARD OF ZONING APPEALS
REGULAR MEETING, October 14, 2015

PRESENT: Mr. Hung, Mr. Rushing, Mr. Roach

ABSENT: Mr. Raber, Mr. Vossler

Chairman Rushing called the meeting to order followed by roll call.

Mr. Hung MOVED to excuse Mr. Raber and Mr. Vossler from the meeting, seconded by Mr. Roach. Motion PASSED by majority voice vote.

Mr. Hung MOVED approval of the agenda, seconded by Mr. Roach. Motion PASSED by majority voice vote.

Mr. Roach MOVED approval of the minutes of September 9, 2015, seconded by Mr. Hung. Motion PASSED by majority voice vote.

PUBLIC HEARING

V-15-7, Eric Jankowski, 4073 Dayton-Xenia Road

Clerk Gillaugh read the notice of public hearing on an application filed by Eric Jankowski, 4073 Dayton-Xenia Road, Beavercreek, OH 45432, requesting a variance from Chapter 158.104 (E)(1)(a) of the City of Beavercreek Zoning Code, requesting permission to construct an accessory structure that would exceed the maximum allowed square footage permitted within an R-1A District. The property is located on the south side of Dayton-Xenia Road, two lots west of the intersection of Ken Klare Drive and Dayton-Xenia Road further described as Book 2, Page 4, Parcel 21 on the Greene County Auditor's Property Tax Atlas.

Eric Jankowski stated he purchased the property about 10 years ago as a foreclosure, and has put \$20,000 into the property in improvements. He explained the house is 2-stories and has a walk-out basement. Mr. Jankowski said he plans to finish the basement in the future. He stated the house has an existing one-car attached garage, but it is impossible for him to pull his work van in it. He read the paperwork he received from the City regarding the road widening project that stated the City had established that a 70-foot setback is appropriate for this area and property type and the house would be setback 46 feet after acquiring the additional land that was needed for the widening project. He explained the driveway was widened to accommodate the close proximity of the road, but with one visitor it is difficult to maneuver around the driveway. Mr. Jankowski stated the majority of his property is to the rear and is proposing to construct a garage behind his house. He said he plans to stay in the house for a long time, to invest in the property.

Mr. Jankowski explained he didn't want to put up only a two-car garage with the investment he will have to put in for just the driveway. He stated with the widening of the road, he would like to get some of the value back into his property. Mr. Jankowski read

a paper that he received from the City when they were acquiring his property which stated "The City of Beavercreek is open to the granting of variances especially when the situation is not due to the actions of the property owner". He explained he had support of all the neighbors around him, and there are signed letters that they are all for it. He explained he has pictures from his neighboring properties, and they would not be able to see it because it is secluded in the woods. Mr. Jankowski wanted a nice garage that would match the house. He presented the Board with some pictures and additional information regarding his case.

Ms. Pereira summarized the staff report dated October 7, 2015, which stated if the case was approved it would permit a 30-foot by 40-foot accessory structure that would exceed the maximum square footage permitted for the property by 472 square feet. She discussed the location of the lot, and read the language of Chapter 158.104 (E)(1) of the Zoning Code. Ms. Pereira explained per Code requirements, this property would be allowed to have a 728 square foot accessory structure. She stated one of the reasons the applicant requested more square footage than the Code permits is because when the City widened Dayton-Xenia Road the City acquired a portion of his front yard for right-of-way and his driveway was shortened. Ms. Pereira explained the property only has a one-car garage, and is not something that is typically seen these days.

Ms. Pereira discussed the criteria that staff reviews to determine if they feel the request is justified or not, and one of the biggest considerations is if there is a reasonable alternative to what the applicant is requesting. Ms. Pereira said variances are typically seen for location issues, and not for additional accessory structure square footage. She stated the saying is that the applicant cannot create the need for the variance, and when the applicant is requesting additional square footage for "stuff" the applicant is creating the need for the variance. She said another criteria that was looked at was if this was the minimum amount of variance possible, and 472 square feet seems excessive. Ms. Pereira explained when looking at the 728 square feet that is permitted, that could be a 24-foot by 30-foot garage. She stated that is a two-car garage with a decent amount of storage or three standard cars would fit in that size structure. Ms. Pereira showed several photos of the property, and recommended denial of the case.

In written input, an email was received from Steve Kelly in favor. A letter was received from Tammy Brown, 4079 Ken Klare Drive; Marlene Barkett, 4089 Ken Klare Drive; George Miller, 4083 Dayton-Xenia Road; and Bruce Harlow, 4097 Dayton-Xenia Road all in favor of the variance request.

There being no further input, the public hearing was closed.

Mr. Roach asked if Mr. Jankowski wanted all the documents he provided the Board to be part of the record. He said with respect to the orientation of the structure, he asked if the width of the structure would be the shorter side and would face towards Dayton-Xenia Road. Mr. Jankowski said yes, it would match the shape of the lot. Mr. Roach said he would then enter from the 30-foot side and it would be 40-foot deep. Mr. Jankowski stated that was correct. Mr. Roach questioned what the height of the building

would be. Mr. Jackowski said ten feet high. Mr. Roach said since staff is not recommending approval of this, he asked what the justification was for such a large structure. Mr. Jankowski explained he liked things to be clean and put away, and he would like to be able to pull his work vehicle in the garage so it is put away. He said he would like to restore an old boat, and he doesn't have any room in his existing garage to do that. Mr. Roach believed everyone was on board that the applicant needed more storage, but it was the extent of the variance.

Mr. Roach asked if any work activities or a business would be run out of the proposed structure. Mr. Jankowski said no. He said once he finishes the basement he will be doubling the square footage of his house even though the City looks at the footprint of the house. Mr. Roach said the problem is the proposal at the time he is making it does not allow for consideration of the square footage because it may or may not materialize. Mr. Roach and Mr. Jankowski discussed the location of the homes of the citizens that provided written input. Mr. Roach asked if staff received any public comment opposing the variance request. Ms. Pereira said she had not spoken to anyone regarding the case. Mr. Roach questioned if the letters were mailed in or delivered by the applicant. Ms. Pereira stated they were delivered by the applicant.

Mr. Hung asked if Mr. Jankowski was made aware that the structure he is proposing is greater than what the Code allows. Mr. Jankowski said when he came in to get a zoning permit, he was told how large of a structure he could build. Mr. Hung stated then he was aware he could construct a 24-foot by 30-foot garage, but decided that wasn't enough room and wanted a 30-foot by 40-foot garage. Mr. Jankowski explained part of his thought process is losing that frontage it has devalued his property. Mr. Hung asked if he constructed a 24-foot by 30-foot garage if he would be able to put his work van and other vehicle in that size garage. Mr. Jankowski said he figured so, but he would like to have a little more room besides that especially with the investment with the driveway. Mr. Hung questioned if the applicant knew how much more the property would be worth if he constructed a 30-foot by 40-foot garage as opposed to a 24-foot by 30-foot. Mr. Jankowski said no. He said he was open to building a garage that was 28-foot by 30-foot if the Board would consider that size.

Mr. Rushing thanked the applicant for the improvements he has made to his property already. He asked if the Zoning Code regulated the parking of boats or work vans on a residential property for an extended period of time. Ms. Pereira said commercial vehicles are not permitted to be stored outside in ordinary public view in any residential district, and recreational vehicles are allowed to be stored on the property as long as they are stored on an impervious surface and there is a maximum of two recreational vehicles that can be stored outside. Mr. Rushing asked if the driveway would require a variance. Ms. Pereira said there is a percentage of the front yard that is allowed to be paved, and didn't think he would have any issues or a permit would be required for him to extend it to the rear yard. Mr. Rushing asked the applicant if he would proceed with building a 24-foot by 30-foot structure if the variance for a 30-foot by 40-foot structure be denied tonight. Mr. Jankowski said probably not for that amount of investment, and questioned if the Board could work with him to come to an agreeable size. He explained

when the City needed his property to widen the road the letter said the City is open to granting variances when it is not the homeowner's fault. Mr. Rushing stated the question tonight is whether or not the applicant has created the need for the variance.

Mr. Roach said the position of staff is the applicant was imposed upon in the area of his front yard, but that is not the problem in respect to any garage. He said the variance request is not a result of the roadway being expanded. Mr. Roach stated for consistency in the Zoning Code all of this has been handed down to the Board for them to interpret, and there has to be some compelling reason they would grant the variance. Mr. Roach said he sees what the applicant gave up in his front yard, while it is unrelated to the request for the garage, he does see that the applicant has made some sacrifices for the community. He explained when he looks at the materials that were submitted, it seems that everyone that would be affected by the variance request seems to be ok with it. Mr. Roach said the garage will be screened by the vegetation that exists, and will be tucked out of site and not in anyone's view. Mr. Roach agreed with the cost of the driveway coming around the far side of the house and extending it down to a two-car garage would most likely exceed the value of a 24-foot by 30-foot garage. He stated he would make the motion to approve the variance, but thought there was a good argument as to why it should not be accepted too and he respected that.

Mr. Hung stated he had a hard time thinking that a 24-foot by 30-foot garage was not sufficient for the uses the applicant wants to use the garage for mainly to store his work van, another car or a boat that he wants to fix up. He thought the 24-foot by 30-foot was quite a substantial size. Mr. Hung explained when he looked at the drawings from Menards, and it shows a 16-foot wide garage door appears to be satisfactory for two cars so he imagined a 24-foot face would be sufficient. He believed the applicant could built a 24-foot by 30-foot garage and it would enhance the value of his home, and he did not see the justification for a 30-foot by 40-foot. Mr. Hung thought they needed to respect the intent of the Code, and follow it to the best of their ability. He said with that in mind, he didn't feel he could approve the requested variance tonight.

Mr. Roach said with the applicant's specific proposal of the variance application that is what they are voting on. He said if there was a different variance application he submitted that would be given consideration also. Mr. Jankowski asked if what Mr. Hung has referenced on the Menards drawing was out of the question. Mr. Hung explained he was looking at the photo to give him some idea about the dimensions of what appears to be a two-car garage. Mr. Roach thought Mr. Jankowski was willing to compromise on the size, and he explained this is not the forum to do that. He said if there is another size that he thought he could manage then he would go through staff again and then the Board would again hear it. Mr. Jankowski questioned if he would have to come back in and pay for the variance application and go through the same process. Mr. Roach explained they would only have the ability to determine the merits of the application that they have in front of them. Mr. Jankowski said it cannot be modified now, and said he didn't want to have to keep coming back in with difference cases for different sizes. Mr. Roach stated the problem is that he would be supportive of the proposal now, and Mr. Hung said he would not be supportive and there are Board members that have not

heard the discussion of other alternatives that might be ok with them so it would not be appropriate. He suggested if Mr. Jankowski felt there was something else to submit that he is not barred from doing it. He said he does not need a variance to build the 24-foot by 30-foot structure since the Code permits him to do that now.

Mr. Roach MOVED to approve V-15-7 with three conditions:

1. The approved site plan shall be that which is stamp dated "Received September 2, 2015 City of Beavercreek Planning Department".
2. An Accessory Structure Zoning Permit must be approved by the Planning and Zoning Department prior to the construction of the accessory structure.
3. The material colors shall be consistent with those of the main structure.

Motion died due to a lack of a second.

Mr. Hung MOVED to deny V-15-7, seconded by Mr. Roach. Motion PASSED by a roll call vote of 3-0. (Mr. Raber, Mr. Vossler absent)

Mr. Hung MOVED adjournment at 7:42 p.m., seconded by Mr. Roach. Motion PASSED by majority voice vote.

Melissa Gillaugh
Deputy Clerk

Subject: Zoning Variance For My Neighbor Eric Janalwski
From: Steve Kelly (sskelly72@yahoo.com)
To: sskelly72@yahoo.com;
Date: Tuesday, May 19, 2015 5:30 PM

JANKOWSKI

I [Stephen Kelly] support a zoning variance for my neighbor Eric Janalwski to improve his property for a specified purpose of parking his cars under roof by building a garage that's bigger then the zoning allowance permits....I can give evidence as a witness that he builds everything on his property first class that fully ameliorates and amplifies the appearance and standard of the neighborhood.....If the Zoning Board has any questions on my part you can email me.

Tammy R. Brown

4070 York Road Dr

Channahon, IL 61018

815-461-0400

Zoning Variance for Eric Jankowski

As a neighbor of Eric Jankowski, I agree he should be granted his request for a zoning variance for the purpose of constructing an unattached garage on his property. I believe this addition would only improve his property and the neighborhood around him. If the zoning board has any questions please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'T R B', with a long horizontal flourish extending to the right.

Tammy R. Brown

May 22, 2015

JANKOWSKI

As the neighbor of Eric Janalwski, I support his request for a zoning variance for the purpose of constructing an oversized garage toward the rear of his property. Eric has continuously been improving his house/property since he moved in.

Marlene Barkett

Marlene Barkett

4089 Ken Klare Dr.

Beavercreek, OH 45432-1950

Phone: 937-429-4137

Marlenebarkett@sbcglobal.net

July 6, 2015

As a neighbor of Eric Jankowski, I honestly believe that he should be granted his request for a zoning variance for the purpose of constructing an oversized garage that will be located at the rear of his property. Mr. Jankowski has always been a great neighbor, he is continuously improving his property. If the zoning board has any questions please feel free to contact me.

George J. Miller
4083 Dayton Xenia Rd
Dayton, Ohio 45432
cell # 937-901-6452

July 21, 2015

I fully support Eric Jankowski's request for rezoning his property to accommodate a new garage at the rear of his house. Eric is a great neighbor and has made many improvements to his property over the years.

Brue Harlow

4097 Dayton Xenia Rd

Beavercreek, OH 45432

937-463-3097

November 6, 2015

STAFF REPORT
VARIANCE REQUEST
CASE NO. V-15-8

I. VARIANCE REQUESTED BY:

William Hollon Construction
3609 Roselawn Drive
Beavercreek, OH 45430

II. NATURE OF REQUEST:

The applicant is requesting a variance from §158.030(I)(1) of the City of Beavercreek Zoning Code and is requesting permission to construct a 24-foot wide by 24-foot deep accessory structure that would encroach 10 feet into the 20-foot required side yard setback within an A-1, Agricultural zoning district.

III. FINDINGS:

1. The property under discussion is located at 2614 Lantz Road (2614 Cinnamon Run) within the Rustling Brook neighborhood.
2. §158.030 (I)(1) of the City of Beavercreek Zoning Code states in agricultural districts "Accessory structures located on parcels greater than five acres...shall be...20 feet from any side property line".
3. The applicant is proposing to locate the 576 square foot garage ten feet from the side property line which would require a ten foot encroachment into the required side yard setback.
4. The lot under discussion is a 5.13 acre pie-shaped parcel that narrows extremely as it approaches the front property line. The property contains a creek that traverses the middle of the parcel and a leach field that spans the yard at the rear of the residential structure.

IV. DISCUSSION

Staff finds that the requested variance from §158.030 (I)(1) meets the requirements for approval per §158.172 (H)(5)(a) of the City of Beavercreek Zoning Code. Staff arrives at this conclusion given the fact the narrowness of the parcel does cause constraints for the construction of a garage and the proposed structure cannot be located any further away from the southern property line due to the close proximity of the leach field and the buried propane tank. The dense

wooded area between this property and the closest neighboring property to the south will make the structure barely visible and will not be injurious to any surrounding properties or result in a deleterious change in the character of the community.

V. RECOMMENDATION:

Staff recommends that the Board of Zoning Appeals find that:

1. The reasons set forth in the application are valid and justify the granting of the variance, and
2. The variance proposal is in accord with §158.172 (H)(5)(a).

Staff further recommends that the Board of Zoning Appeals adopt the attached resolution approving the variance from §158.030 (I)(1) with the following conditions:

1. The approved site plan shall be that which is stamp dated "Received November 5, 2015 City of Beavercreek Planning Department".
2. An Accessory Structure Zoning Permit must be approved by the Planning and Zoning Department prior to the construction of the accessory structure.
3. A survey must be completed by a registered surveyor and submitted to the Planning and Zoning department prior to the release of a zoning permit.

**RESOLUTION
BOARD OF ZONING APPEALS
CASE NO. V-15-8**

WHEREAS, William Hollon Construction has made application for a variance from the strict application of the requirements of the City of Beavercreek Zoning Code for the property located at 2614 Lantz Road a.k.a. 2614 Cinnamon Run; and

WHEREAS, the applicant is requesting permission to construct an accessory structure that would be located in the required side yard in an A-1 District; and

WHEREAS, a public hearing was held on November 11, 2015 at which time all persons were given opportunity to comment on the application; and

WHEREAS, the Board of Zoning Appeals finds that the reasons set forth in the application are valid and justify the granting of the variance; and

WHEREAS, the Board of Zoning Appeals finds that subparagraphs 1 through 8 of §158.172 (H)(5)(a) have been fully satisfied.

NOW therefore the Board of Zoning Appeals orders that:

A variance from the prohibition of an accessory structure within the required side yard within an A-1 District to allow construction of said accessory structure that would be located in the required side yard shall be approved with the following conditions:

1. The approved site plan shall be that which is stamp dated "Received November 5, 2015 City of Beavercreek Planning Department".
2. An Accessory Structure Zoning Permit must be approved by the Planning and Zoning Department prior to the construction of the accessory structure.
3. A survey must be completed by a registered surveyor and submitted to the Planning and Zoning department prior to the release of a zoning permit.

ACTION BY BOARD OF ZONING APPEALS

(Date)

Chairman





CINNAMON

1 inch = 100 feet

William Hollon
3609 Roselawn Drive
Beavercreek, Ohio 45430
(937) 545-2238

October 14, 2015

City of Beavercreek
Planning and Zoning Department
1368 Research Park Drive
Beavercreek, Ohio 45432

Property at location of requested variance
Mahendra K & Usha Mahajan
2614 Cinnamon Run
Beavercreek, Ohio 45434

Request for a variance to build a 24' x 24' brick garage to match existing brick on present house within 10' of the south property line at the end of present driveway.

The lot is full in the rear of the house with buried propane tank; leach field, septic tank and tennis court. Behind the tennis court is a gully that drops off sharply.

The following is a list of property owners within 500 feet

Iris R James
2604 Lantz Road
Beavercreek, Ohio 45434

Phyllis A Buchwalder
2610 Lantz Road
Beavercreek, Ohio 45434

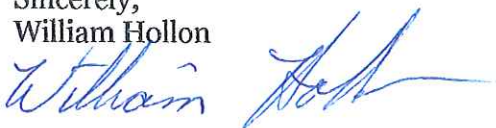
Scott Sholiton
2612 Lantz Road
Beavercreek, Ohio 45434

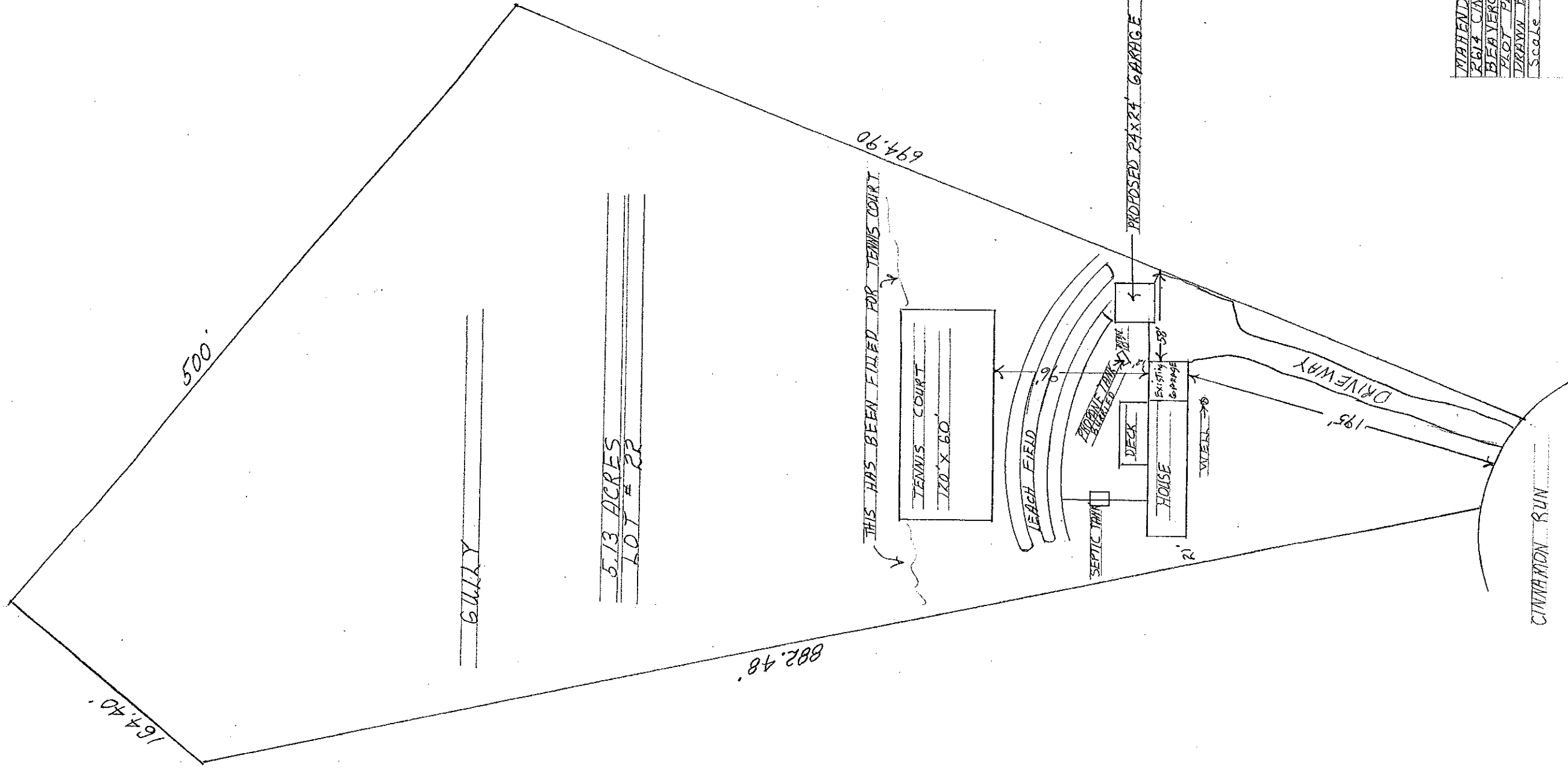
William F Chidley
2616 Lantz Road
Beavercreek, Ohio 45434

Iris R James
(2618 Cinnamon Run)
2604 Lantz Road
Beavercreek, Ohio 45434

I would appreciate any considerations on this matter.

Sincerely,
William Hollon





MAHENDRA K & USHA MAHAJAN
PLOT CANNAMON RUN
BEAVERCREEK, OHIO 45434
PLOT PLAN 11/5/2015
DRAWN BY: BILL HOLTON 1937, 545-2238
Scale 1" = 50'